

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 584

Introduced by Senator Alarcon

February 20, 2003

An act to add Section 17531.3 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 584, as amended, Alarcon. Advertising.

Existing law makes it unlawful for a business to engage in specified practices relating to the advertisement of its products or services.

This bill would require a person, as defined, who advertises, promotes, or markets a service or product in a language other than English to, upon the request of a consumer, provide specified materials to him or her and to notify consumers of the right to request these materials. *The bill would exempt a person with annual gross revenues of less than \$500,000 from these requirements if the person provides an in-house translator to assist consumers who respond to the advertising, promotion, or marketing.* The bill would make a violation of these requirements subject to the assessment and collection of a ~~\$2,500~~ civil penalty *of up to \$5,000* in an action brought by a consumer.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17531.3 is added to the Business and
- 2 Professions Code, to read:

1 17531.3. (a) A person who advertises, promotes, or markets
2 a service or product in a language other than English shall, upon
3 the request of a consumer, provide the following material in that
4 other language:

5 (1) Information on the rates, terms, and conditions for
6 providing the service or product *that was advertised, promoted, or*
7 *marketed*.

8 (2) A description of new services or products and any discount
9 programs and promotions offered for those services or products.

10 (3) Information on accessing repair and customer services,
11 including the process to make a billing inquiry.

12 (b) A person who advertises, promotes, or markets a service or
13 product in a language other than English shall notify consumers of
14 their right to request the materials described in subdivision (a).

15 (c) The following definitions apply for the purposes of this
16 section:

17 (1) “Advertise” means to use any electronic, written, or verbal
18 message to market to and attract a customer.

19 (2) “Consumer” means a natural individual.

20 ~~(2)~~

21 (3) “Person” has the same meaning as in Section 17506 and
22 includes all persons subject to registration, licensing, or regulation
23 under this code.

24 (d) *Notwithstanding subdivisions (a) and (b), a person with*
25 *annual gross revenues of less than five hundred thousand dollars*
26 *(\$500,000) is exempt from the requirement to provide written*
27 *materials in the language in which the service or product is*
28 *advertised, promoted, or marketed, if the person provides an*
29 *in-house translator to assist consumers who respond to the*
30 *advertising, promotion, or marketing.*

31 (e) Notwithstanding any other provision of law, the sole
32 remedy for a violation of this section is the assessment and
33 collection of a civil penalty ~~in~~ *of up to* the amount of ~~two thousand~~
34 ~~five hundred dollars (\$2,500)~~ *five thousand dollars (\$5,000)* for
35 each violation. An action to assess and collect the civil penalty may
36 be brought by a consumer who was not provided the materials, as
37 described in subdivision (a), or was not notified of his or her right
38 to request those materials, as described in subdivision (b). *The*
39 *court shall make a distinction between negligence and willful*
40 *market abuse in determining the amount of the civil penalty.* The

1 court shall award a consumer who prevails in the action reasonable
2 attorney's fees and costs.
3 ~~(e)~~
4 (f) This section does not apply to a nonprofit organization that
5 is exempt from the payment of income taxes under Section
6 501(c)(3) of the Internal Revenue Code.

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